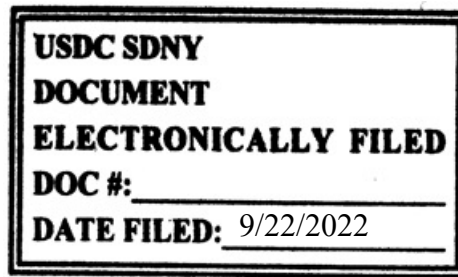




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September 22, 2022

Via CM/ECF only

Hon. Katherine M. Parker, U.S.M.J.
 United States District Court
 Southern District of New York
 500 Pearl Street, Courtroom 17D
 New York, NY 10007

**Re: Harriet Nicholson v. The Bank of New York Mellon, etc.
 Civil Action No.: 1:22-cv-03177-PGG-KMP**

Dear Judge Parker,

This firm represents Defendant, The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of CWMBS, Inc., CWMBS Reforming Loan REMIC Trust Certifies, Series 2005-R2 (“Defendant”) in the above-captioned matter. Presently the matter is scheduled for a case management conference on September 28, 2022 at 12:00 pm. Defendant submits this letter-motion seeking an adjournment of the conference to a later date due to a scheduling conflict for the undersigned.

The reason Defendant seeks an adjournment of the conference is that the undersigned is required to appear in person in the Supreme Court of the State of New York, Orange County in another matter on the same date during the same time as this conference, and based on that other case’s posture, the date cannot be adjourned. As the undersigned cannot be in two places at once, if this conference is not adjourned another attorney from the undersigned’s firm would have to appear instead and that other attorney would not have the same familiarity with the case and underlying facts, and with what occurred during the previous conference. This is Defendant’s first request for an adjournment of the conference date.

Prior to filing this letter-motion, the undersigned reached out to Plaintiff, Harriet Nicholson (“Plaintiff”) to obtain her consent to the adjournment, and Plaintiff advised she does not consent. As best as the undersigned can glean from her response, Plaintiff objects because she does not believe a case management conference needs to be held and that Your Honor could just instead issue a scheduling order. However, Defendant disagrees with Plaintiff’s view of the purpose and reason for the upcoming (follow-up) case management conference and does not believe it would be warranted for the Court to cancel and just issue a scheduling Order. Among other reasons, pending before the Court is Defendant’s pre-answer Motion to Dismiss the Second Amended



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Complaint With Prejudice Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), and Plaintiff's Motion for Leave to Amend to File a Third Amended Complaint, which Defendant believes should both be decided before any scheduling order issues. Moreover, as the undersigned understood from the previous conference held on August 11, 2022, Your Honor wanted to further explore the possibility of settlement and discuss the case's posture with the parties in more detail (which discussion did not take place at the prior conference due to the focus on settlement).

For the foregoing reasons, Defendant respectfully requests that the Court adjourn the September 28, 2022 case management conference to a later date that is convenient to the Court. If Your Honor has any questions or concerns regarding this letter-motion, please have Your Honor's Chambers contact the undersigned to further discuss. We thank the Court for its courtesies.

Respectfully submitted,
McCalla Raymer Leibert Pierce, LLC

By: /s/ Brian P. Scibetta
Brian P. Scibetta, Esq.

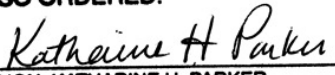
cc: Harriet Nicholson, *pro se* (via ECF and email)

Hon. Paul G. Gardephe, U.S.D.J. (via ECF)

The Court has reviewed the parties' letters at ECF Nos. 74-75. Defendants' request to adjourn the September 28, 2022 case management conference is GRANTED. The case management conference will now be held on **Wednesday, October 19, 2022 at 11:00 AM EST. Please Dial (866) 434-5269, Access code: 4858267 at the scheduled time.**

As to Plaintiff's request to issue a scheduling order, it is DENIED without prejudice. As discussed during the initial conference on August 11, 2022, this matter may be resolved through settlement, and if settlement was not possible, the Court would set a briefing schedule at the next case management conference. Accordingly, the Court finds good cause to delay issuing a scheduling order at this time.

SO ORDERED:


HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE

9/22/2022